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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/784,049

02/20/2004

Isabel M. Lima

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04/10/2008

USDA-ARS-OFFICE OF TECHNOLOGY TRANSFER
NATIONAL CTR FOR AGRICULTURAL UTILIZATION RESEARCH
1815 N. UNIVERSITY STREET
PEORIA, IL 61604

EXAMINER

HENDRICKSON, STUART L

ART UNIT

PAPER NUMBER

1793

MAIL DATE

DELIVERY MODE

04/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/784,049

Applicant(s)

LIMA ET AL.

Examiner

Stuart Hendrickson

Art Unit

1793

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 9-21 is/are rejected.
- 7) ☒ Claim(s) 3-6 and 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 9/13/07
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 15-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bagreev in view of Shinogi 'Basic ...' article and Chiang. Bagreev teaches on pg. 5 active carbon from sludge. Chiang teaches in the opening paragraph that sewage contains a lot of phosphorus, confirmed by pg. 663 of Shinogi. No difference is seen in the present product versus the references discussed in the specification; the Office need not show the same process of a product-by-process claim.

Claims 15-21 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chen in view of Shinogi 'Basic ...' article and Chiang. Chen teaches on pgs. 1 and 3 active carbon from sludge. Chiang teaches in the opening paragraph that sewage contains a lot of phosphorus, confirmed by pg. 663 of Shinogi. No difference is seen in the present product versus the references discussed in the specification; the Office need not show the same process of a product-by-process claim.

Claims 1, 2, 7, 9-13, 15-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carugati et al. 5391534 taken with Landis 5695554 and Shinogi 'Pyrolysis ...' article.

Carugati teaches in col. 1 activating humic acid (which Landis col. 2 teaches is found from carbonized manure) to form a high surface area active carbon. Using poultry manure as the source of humic acid is an obvious expedient to avoid polluting rivers/watersheds from the waste and to provide an inexpensive source of carbon- as indicated by Shinogi.

Concerning claim 10, 850 degrees is taught; the time and rate of contact with stream is a matter of optimization of throughput to assure complete activation; In re Boesch 205 USPQ 215. Ex. 1 of Carugati teaches washing the product. Claim 14 is deemed met when manure is used, as it is a natural material, particularly if activated with phosphoric acid as taught by Carugati.

The active carbon made makes claims 15-20 unpatentable; no difference is seen.

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Claims 14 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carugati et al. 5391534 taken with Landis 5695554 as applied to claims 1, 2, 7, 9-13, 15-20 above, and further in view of Shinogi 'Basic ...' article and Chiang article.

The above reference do not teach phosphate content, however Chiang teaches in the opening paragraph that sewage contains a lot of phosphorus, confirmed by pg. 663 of Shinogi.

Applicant's arguments filed 1/11/08 have been fully considered but they are not persuasive.

The product has been rejected by the submitted references. The gist of the arguments is process steps, however this is not persuasive as to product (by process) claims, which are not limited to any particular metal sorption values. The P content is deemed possessed, as explained in the expanded rejection. Concerning Carugati/Landis, the teaching of Landis beyond which is relied upon are not relevant- it shows a source of humic acid, which is what Carugati needs. This rejection has also been modified to teach what is well known about the problems of poultry farms. Carugati col. 2 line 44 does not say that the forms of humic acid are radically different from each other as carbon sources- The difference is between treated and untreated materials. Since coal is itself natural, the argued interpretation of Carugi is incorrect- coal cannot be different form 'natural carbon' because it is natural carbon. A difference in the actual carbon product should be shown- note the product of Carugati alone.

Any inquiry concerning this communication should be directed to examiner Hendrickson at telephone number (571) 272-1351.

/Stuart Hendrickson/

Stuart Hendrickson
examiner Art Unit 1793